

CHAPTER 13: FARM LABOR HOUSING LOANS AND GRANTS

13.1 INTRODUCTION

This chapter describes the loan and grant origination process for Farm Labor Housing projects. While the origination process for loans and grants to these projects has many similarities to the process for Section 515 loans, there are several important differences. This chapter will highlight the additional requirements and procedures that are specific to the process of making Farm Labor Housing loans and grants.

When processing Farm Labor Housing loan or grant applications, Loan Originators will follow the basic procedures presented in Chapters 4, 5, and 6. While these chapters focus on the procedures for processing Section 515 loan applications, these procedures also apply to Farm Labor Housing. This chapter supplements this guidance by describing how these procedures apply to Farm Labor Housing. It is broken into two major sections:

- **Section 1: Off-Farm Labor Housing Loans and Grants.** This section discusses the loan and grant origination process for Off-Farm projects, including the selection of proposals through a NOFA process, the awarding of funding on a ranking basis and the processing of applications through State Offices.
- **Section 2: On-Farm Labor Housing Loans.** This section details the procedures for processing applications for On-Farm Labor Housing loans including the award of funds through the National Office on a first-come, first-served basis, and the review and processing of applications by the Field Office.

SECTION 1: OFF-FARM LABOR HOUSING LOANS AND GRANTS

13.2 OVERVIEW

Off-Farm Labor Housing projects are designed to increase the supply of affordable housing for farm laborers regardless of the farm where they work. Loans, grants, or both may finance these projects. In addition, developers of these projects may apply for Agency rental assistance contracts.

Off-Farm Labor Housing is normally developed by broad-based nonprofit organizations or public bodies who see a need for labor housing as a specific market area. It is not restricted by the “designated places” requirement that applies to Section 515 loans and may be constructed in either urban or rural areas so long as the applicant can justify the need. Each year the Agency establishes a specific allocation of funding for the development of Off-Farm Labor Housing. Announcement of this allocation is published annually through a Notice of Funds Availability (NOFA). Interested applicants may then submit project proposals to their Field Office to seek funding. Just like Section 515 projects, applicants whose proposals are selected for further processing must submit initial and final applications.

13.3 APPLICANT ELIGIBILITY FOR OFF-FARM LABOR HOUSING **[7 CFR 3560.555]**

A. Eligible Applicants for Labor Housing Loans

To be eligible for a Section 514 Farm Labor Housing loan, the applicant must meet the eligibility requirements as described in Chapter 5, Section 3 and the requirements established under 7 CFR 3560.555. Applicants must be one of the following to be eligible:

- A local nonprofit organization. A local nonprofit entity must meet the requirements for nonprofit organizations established in Chapter 5, Section 3.
- A limited partnership with a nonprofit general partner. This type of limited partnership must meet the requirements established under 7 CFR 3560.55(d).
- A nonprofit organization of farmworkers. A nonprofit organization of farmworkers must have representation on the board from the area where the housing is located. If member directors represent a majority of the board, directors who are not members of the organization may be elected, but they must be experienced in such fields as real estate management, finance, or related businesses.
- A federally recognized Indian tribe.
- An agency or political subdivision of State or local government.

B. Eligible Applicants for Labor Housing Grants

To be eligible for a Section 516 Labor Housing grant, the applicant must also meet the following requirements:

- A local nonprofit organization. A local nonprofit entity must meet the requirements for nonprofit organizations established in Chapter 5, Section 3.
- A nonprofit organization of farmworkers. A nonprofit organization of farmworkers must have representation on the board from the area where the housing is located. If member directors represent a majority of the board, directors who are not members of the organization may be elected, but they must be experienced in such fields as real estate management, finance, or related businesses.
- A federally recognized Indian tribe.
- An agency or political subdivision of State or local government.

1. Maximum Grant Amount

The maximum grant amount is limited to no more than 90 percent of the total development cost of the project. The remaining portion must be available at the time of loan closing and may come from a variety of sources, including an Off-Farm Labor Housing loan. If a Labor Housing loan is needed, the applicant will file an application for a combination loan and grant at the same time.

2. Documented Need for the Project

The applicant must document that the housing and related facilities will fulfill a pressing need in the area in which the project is or will be located and that there is reasonable doubt that such housing can be provided without the grant.

13.4 PROJECT ELIGIBILITY

In order for a project proposal to be eligible to receive a loan or grant under the Off-Farm Labor Housing program, it must meet specific project eligibility requirements. These requirements include:

- Site requirements; and
- Design requirements

A. Site Requirements [7 CFR 3560.558]

Off-Farm Labor Housing projects must comply with the site requirements developed in 7 CFR 3560.558 with the exception of the requirement that the property be located in a “designated place.” Labor housing may be developed in both urban and rural areas.

Off-Farm Labor Housing project proposals will not be considered for funding when:

- RHS has selected another Farm Labor Housing loan/grant request in the same market area for further processing;
- A previously approved Agency, HUD, or other assisted multi-family housing project or similar project in the same market area in which farmworkers are eligible tenants has not been completed, has not reached its projected occupancy level, or is experiencing high vacancy levels;
- A Special Note Rent (SNR) or similar servicing tool in the same market area is pending or in effect; or
- The need in the market area is for additional rental assistance or similar subsidy and not for additional housing units.

B. Design Requirements [7 CFR 3560.559]

Project proposals for Off-Farm Labor Housing Loans and Grants must meet the design requirements established in 7 CFR 3560.559

1. Interior/Exterior Washing Facilities

Proposals must also incorporate interior and exterior washing facilities for tenants, as necessary to protect the asset and the tenants from excess dirt and chemical exposure. Such facilities might include a boot washing station, hose bibs, or bathroom within the dwelling unit that is accessible to the dwelling entrance, depending on the type of work that farm workers in the local area perform. Applicants should include documentation of the type of work that proposed tenant laborers will perform as well as what outdoor washing facilities will accommodate the project's needs as part of the project proposal.

2. Seasonal Labor Housing

Seasonal farm labor housing that will be occupied for eight months or less per year by migrant farmworkers while they are away from their residence, may be constructed in accordance with RD Instruction 1924-A, Exhibit I, Planning and Performing Construction and Other Development, as opposed to RD Instruction 1924-C, Planning and Performing Site Development Work. The project proposal should clearly document the standards under which the applicant proposes to develop the housing.

13.5 LOAN AND GRANT FUND USES**A. Eligible Uses of Funds [7 CFR 3560.53(k) and (o)]**

In addition to the eligible uses of loan funds listed in Chapter 4, **Attachment 4-2**, loan and grant funds may also be used to provide:

- Reimbursement for technical assistance received from another nonprofit organization, legal, technical, and professional fees of up to four percent of total development costs to assist in the organization's formation and in the development and packaging of a loan application.
- Initial operating expenses of up to two percent of the development cost for any type of applicant except an individual farmowner, family farm corporation or partnership, or an association of farmers.
- Tenant-related facilities that the applicant can document are necessary, such as daycare facilities and computer learning centers.
- Facilities for seasonal or temporary use with appropriate furnishings and equipment.

B. Prohibited Uses [7 CFR 3560.554]

Loan and grant funds may not be used for any purpose prohibited by 7 CFR 3560.554, the same prohibitions that apply to Section 515 loans, except that Section 514/516 funds may be used to finance the development of housing to serve primarily temporary and transient residents (see **Attachment 4-B**).

13.6 SUBMISSION AND PROCESSING OF PROJECT PROPOSALS

A. Content of Project Proposals

Project proposals for Off-Farm Labor Housing have the same basic submission requirements as Section 515 project proposals (see Exhibit 4-5 of Chapter 4).

B. Completeness Review

Loan Originators must review project proposals for completeness in accordance with the instructions in Chapter 4, Section 3.

C. Eligibility Review

In reviewing a project proposal for eligibility, a loan originator should ensure that the request for funds is in compliance with paragraphs 13.3, 13.4, 13.5, and 13.6 in accordance with Chapter 4. Loan Originators need to remember that the “designated places” requirements do not apply to labor housing, and applications should not be removed from processing because of failure to be located in a designated place.

D. Scoring and Ranking of Project Proposals

State offices will then score and rank project proposals for Farm Labor Housing loans and grants in accordance with the requirements of the NOFA and the procedures described in Chapter 4, Section 3. A loan committee must review the scoring and the ranking of the proposals prior to the proposals being forwarded to the National Office for selection for funding.

E. National Ranking and Selection of Project Proposals

1. Ranking of Proposals on the National Level

The Agency will review, score, and rank loan and grant requests according to criteria periodically published in the NOFA.

Once the ranking and scoring process has been completed in each State, State Offices must forward all eligible proposals to the National Office for selection through the national funding process.

Each year the National Office will notify State Offices of the deadline for submitting applications for consideration in the national funding selection.

2. Selection of Proposals by the National Office

Off-Farm Labor Housing project proposals will be ranked on a national basis according to the scoring awarded to each proposal on the local level. Funds will then be awarded to the top-scoring proposal.

If, after award, an applicant chooses not to proceed to the next stage or is not successful in completing the project, then the next highest ranked application will be eligible to use the funds reserved for the unsuccessful project.

F. Notification of Proposal Selection

The National Office will inform each State Office of the proposals that have been selected from the State for funding. The State Office, in turn, will notify the NOFA respondents whose proposals were selected by the National Office and invite them to submit an initial application in accordance with Chapter 4, Section 4. All applicants should receive one of three types of letters. Note: Any letter that the Agency sends for any reason other than to invite an application, must include the standard ECOA notice, a copy of which is provided in **Attachment 1-A**.

1. A Letter Inviting an Initial Application to be Submitted

This letter would go to all applicants who were selected for further processing in the national competition.

2. A Letter Informing the Applicant of the Lack of Funds

This letter is sent to all applicants who were not awarded funds in the national competition. The letter should advise the applicant that if one of the selected proposals does not proceed to the next stage, the applicant's proposal could be funded.

3. A Letter Denying Funding to the Applicant Due to Ineligibility

This letter would be sent to any applicant who was not considered for funding because of ineligibility. Ineligibility would normally be determined before the application is submitted for funding consideration either on the state or national level.

13.7 SUBMISSION AND PROCESSING OF INITIAL APPLICATIONS

For the Off-Farm Labor Housing program, the submission and processing of initial applications should be performed in accordance with Chapter 5. However, because there are additional requirements for Off-Farm projects, some procedures for reviewing initial applications are different. These procedures are covered below.

A. Project Eligibility

When reviewing initial applications for project eligibility, Loan Originators must address the following considerations.

- Inform applicants that the proposed project does not have to be located in a rural location or meet the “designated places” criteria.
- Confirm that the applicant adequately provided for exterior washing facilities in the project budget.
- Check that the applicant adequately addressed whether the project will be used year round or seasonally and to what standards the housing will be built.

B. Applicant Eligibility

When determining applicant eligibility, the Loan Originator must consider the following items:

- The applicant must qualify as one of the five eligible entities listed in paragraph 13.3.
- If applicants are also requesting grant funding, they must have demonstrated or documented:
 - ◊ That the organization is a permanent one with the purpose of providing low-income housing for farm workers.
 - ◊ The source of the balance of the total development costs for the project that would not be paid for with grant funds.
 - ◊ The pressing need for the project and that such a need cannot be fulfilled without grant funding.

C. Project Feasibility

The applicant must demonstrate in the initial application a need for affordable Farm Labor Housing in the market area as described in paragraph 4.9 of Chapter 4. Applicants should provide the following analysis with their initial application to justify project feasibility:

- Current and projected future levels of agricultural activity in the market area.
- Current and projected future levels of need for farmworkers that meets the program eligibility requirements. Note: The market study must exclude those that are not eligible (e.g., farmworkers who are not citizens of the United States or legally admitted for permanent residence).

D. Calculation of the Allowable Grant Amount

The National Office will calculate the allowable grant amount, using an automated cash flow analysis tool and project economic data furnished by the applicant. Final

loan/grant levels will be determined by assessing area rents, operating and maintenance expenses, and rental assistance availability.

13.8 SUBMISSION AND PROCESSING OF FINAL APPLICATIONS

- Loan Originators should follow the processing procedures outlined in Chapter 6 for Off-Farm Labor housing projects. A key exception to consider in processing the final loan applications is that the amount of any grant may not exceed the lesser of 90 percent of the total development cost.

1. Determining the Security Value of the Loan

In determining the security value of the Labor Housing project, the loan originator must take into account the total amount of both the loan and the grant proposed for the project. The security value of the property must cover both the loan and the grant proposed for the project in order for the project to be considered feasible.

2. Determining the Contribution of the Borrower

- **For projects requesting only a Section 514 loan.** The equity contribution of the borrower will be determined in accordance with Chapter 6, Section 3.
- **For projects requesting grant funds.** The borrower must comply with 7 CFR 3560.555(b) and ensure that the difference between the maximum grant amount of 90 percent of total development costs and the total development costs will be covered either from the borrower's own or other resources. This variance could be fulfilled in the form of a Section 514 Labor Housing loan.

3. Setting Loan and Grant Rates and Terms [7 CFR 3560.566]

For Off-Farm Labor Housing projects, the interest rate is set at one percent. The term of any loan is 33 years. The term of any grant is 50 years.

B. Establishing a Profit Base on Initial Investment Return

In the case of a limited partnership using tax credits with an equity position, a return is permissible in accordance with paragraph 6.13 D.

13.9 LOAN/GRANT APPROVAL AND CLOSING [7 CFR 3560.570]

Off-Farm Labor Housing loans and grants will be approved and closed in accordance with the procedures in Chapter 6. However, the following additional loan closing documents will be required.

A. Loan Resolution or Loan Agreement

An organization must have its Board of Directors adopt an agency-approved loan resolution and furnish a certified copy for the loan docket before loan approval. All other

loan applicants will execute an Agency-approved loan agreement in accordance with Chapter 6.

B. Labor Housing Grant Agreement and Resolution

A Farm Labor Housing grant agreement, prepared and authorized by the Agency, must be dated and executed by the applicant on the date of grant closing. The form of resolution to be adopted by the applicant must contain policy and procedural requirements that should be read and be fully understood by the applicant's Board of Directors and officers. Included in the resolution will be provisions authorizing the Agency to prescribe requirements regarding the operation of the housing and related facilities and other provisions including the following:

- The rents charged tenants must not exceed such amounts as are approved by the Agency after considering the income of the occupants and the necessary costs of operation, debt service, and adequate maintenance of the housing.
- The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, and as required by the Agency.
- In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

The obligations incurred by the applicant, as a condition of accepting the grant, will be in accordance with the Labor Housing Grant Agreement. The term of the restricted use provision for the labor housing grants is 50 years.

C. Restrictive Use Provisions

All Farm Labor Housing loans and grants are subject to the restrictive-use provisions contained in 7 CFR 3560.457. Such restrictions will be included in the mortgage, deed of trust, or grant agreement.

13.10 MONITORING CONSTRUCTION AND PROJECT LEASE-UP

Construction monitoring and project lease-up oversight will be conducted in accordance with Chapter 10.

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SECTION 2: ON-FARM LABOR HOUSING LOANS

13.11 OVERVIEW

On-Farm Labor Housing projects are designed to increase the supply of affordable housing for farm laborers and are specific to the farm where those laborers work. Loans funds are provided to farmowners and associations of farmers who wish to provide housing to the farm laborers they employ.

On-Farm Labor Housing is also not restricted by the “designated places” requirements and may be constructed in either urban or rural areas, on or off the farm, so long as the applicant can justify the need. Each year the Agency establishes a specific allocation of funding for the development of On-Farm Labor Housing. Field Offices are notified of this allocation through RD Instruction 1940-L, Methodology and Formulas for Allocations of Loan and Grant Program Funds, which is published in the Federal Register. Interested applicants may then submit information to their Field Office to determine their likelihood for funding. Applications are funded on a first-come, first-served basis from National Office funds.

13.12 APPLICANT ELIGIBILITY [7 CFR 3560.605]

To be eligible for a Section 514 Farm Labor Housing loan, the applicant must meet the same eligibility requirements as Section 515 applicants and the additional requirements established under 7 CFR 3560.605 and described below. In addition to the applicant eligibility requirements described in Section 3 of Chapter 5, applicants must also meet the following requirements to be eligible.

- The borrower entity must be a farmowner, a family farm partnership, a family farm corporation, or an association of farmers whose farming operations demonstrate a need for farm labor housing.
- The borrower entity must be engaged in agricultural or aquacultural farming operations and must own the housing and operate it on a nonprofit basis.
- The borrower entity must intend to use the housing for labor employed in its farming operations or the farming operations of its members.
- The applicant must certify that the farmworkers for whom the housing is intended are currently involved in agricultural or aquacultural farming operations.

The Agency might make an exception to the requirement that an applicant be unable to obtain the necessary credit elsewhere [7 CFR 3560.55(a)(2)] when all of the following conditions exist:

- There is a need in the area for housing for migrant farmworkers and the applicant will provide such housing; and

- There are no qualified State or political subdivisions or public or private nonprofit organizations currently available or likely to become available within a reasonable period of time who are willing and able to provide the housing.

13.13 PROJECT ELIGIBILITY [7 CFR 3560.608]

For a project proposal to be eligible to receive a loan under the On-Farm Labor Housing program, it must meet specific project eligibility requirements. These requirements are designed not only to meet the immediate need of specific farmers to provide housing for their laborers, but to ensure that in the event the market shifts or the farmer no longer desires to remain in the farming industry, this housing may be used for other eligible populations. The Agency has established the following site and design requirements for On-Farm Labor Housing projects.

- Housing that is being designed for seasonal occupancy, whether single-family or multi-family type housing, may be located on the farm as long as it is not located near farm service buildings. Such housing must be suitable to allow for conversion to full-year occupancy if the need for migrant farmworkers in the area declines.
- Single-family type housing is defined as an individual or a group of individual single family detached dwelling units. All sites shall be planned and constructed in accordance with RD Instruction 1924-C, Planning and Performing Site Development Work.
- On-Farm Labor Housing sites must provide access to road frontage, when feasible.
- Manufactured housing is not required to meet the contiguous lot requirement established in 7 CFR 3560.70. Manufactured housing may be proposed as a single unit.

13.14 LOAN FUND USES

A. Eligible Uses of Funds [7 CFR 3560.603]

In addition to the eligible uses of loan funds listed in Chapter 4, Section 3, loan funds may also be used to provide facilities for seasonal or temporary use with appropriate furnishings and equipment.

B. Prohibited Uses [7 CFR 3560.604]

Loan funds may not be used for any purpose prohibited by § 3560.554. These are the same prohibitions that apply to Section 515 loans, except that Section 514 funds may be used to finance the development of housing to serve primarily temporary and transient residents (see **Attachment 4-B**).

For On-Farm Labor Housing projects, loan funds may not be used to provide housing for the applicant or members of the immediate family of the applicant when the applicant is an individual farmowner, family farm corporation or partnership, or an association of

farmers. Immediate family in this instance includes mother, father, brothers, sisters, sons, and daughters of applicant(s) and spouse.

13.15 PRIORITIES FOR FUNDING

There are no priorities for funding for On-Farm Labor Housing applications. Proposals are funded on a first-come, first-served basis.

13.16 SUBMISSION AND PROCESSING OF INITIAL APPLICATIONS

For the On-Farm Labor Housing program, the submission and processing of initial applications should be performed in accordance with Chapter 5. There are several areas where additional information should be considered prior to requesting the submission of a final application for processing.

A. Project Eligibility

When reviewing initial applications for project eligibility, Loan Originators must address the following considerations:

- The proposed project does not have to be located in a rural location or meet the “designated places” criteria.
- Confirm that the applicant adequately provided for interior and exterior washing facilities in the project budget.
- Check that the applicant adequately addressed whether the project will be used year-round or seasonally and to what standards the housing will be built.

B. Applicant Eligibility

When determining applicant eligibility, the Loan Originator must consider the following items.

- The applicant must qualify as an eligible entity as outlined in paragraph 13.33.
- If applicants are also requesting a waiver of the “necessary credit elsewhere test” [7 *CFR* 3560.55(a)(2)], proper documentation must be provided.

C. Project Feasibility

The applicant must demonstrate a need for On-Farm Labor Housing in the market area. This can be done by documenting his or her employees’ need for housing.

13.17 SUBMISSION AND PROCESSING OF FINAL APPLICATIONS

Loan originators should follow the processing procedures outlined in Chapter 6 for On-Farm Labor Housing projects. Some key exceptions to consider in processing the final loan applications are as follows:

A. Determining Loan Limits, Rates, and Terms [7 CFR 3560.612 and 616]

1. *Maximum Loan Amount*

The amount of the loan may not exceed the value of the security for the loan as determined by an appraisal, less the unpaid principal balance, plus past due interest of any prior liens that will or will likely exist against the security after the loan is closed.

2. *Determining the Security Value of the Loan*

The security value of the loan will be determined in accordance with Section 3 of Chapter 6.

3. *Setting Loan Rates and Terms*

For On-Farm Labor Housing projects, the effective interest rate will be one percent except for those borrowers determined eligible under 7 CFR 3560.604 (b). In the latter situation, the interest rate will be calculated in accordance with RD Instruction 440.1, Interest Rates, Amortization, Guarantee Fee, Annual Charge, and Fixed Period. The amortization period for each loan will be scheduled on an annual basis, but the maximum term for the On-Farm Labor Housing Loan will not exceed 33 years.

B. Establishing a Profit Base on Initial Investment Return

For On-Farm Labor Housing Loans, no profit base will be permitted as a return on a borrower's investment. All labor housing must be operated in a nonprofit manner with no return to the borrower.

13.18 LOAN APPROVAL AND CLOSING [7 CFR 3560.621]

Loans will be closed in accordance with Chapters 6 and 9. However, for On-Farm Labor Housing loans, the following additional loan closing documents are required.

A. Loan Resolution or Loan Agreement [7 CFR 3560.571]

The organization must have its Board of Directors adopt an Agency-approved loan resolution and furnish a certified copy for the loan docket before loan approval. All other loan applicants will execute an Agency-approved loan agreement in accordance with Chapter 6.

B. Security Documents [7 CFR 3560.610]

Loan Originators must confirm that the following documents have been properly prepared for the project.

- The project must be located on a tract of land that is separate and distinct from the farm. The security for the loan must include a first lien on the tract of land where the project is located.
- If necessary to provide adequate security for the loan, the Agency may require that any household furnishings purchased with loan funds also be secured.
- Personal liability will be required of the members of an association of farmers.

13.19 CONSTRUCTION MONITORING

Construction monitoring oversight will be conducted in accordance with Chapter 10.